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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/621,891	07/16/2003	Masataka Ito	273855US90	1485
22850	7590	09/20/2007		
OBLON, SPIVAK, MCCLELLAND MAIER & NEUSTADT, P.C. 1940 DUKE STREET ALEXANDRIA, VA 22314				
			EXAMINER	
			PEACE, RHONDA S	
			ART UNIT	PAPER NUMBER
			2874	
			NOTIFICATION DATE	DELIVERY MODE
			09/20/2007	ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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Advisory Action Before the Filing of an Appeal Brief	Application No.	Applicant(s)	
	10/621,891	ITO ET AL.	
	Examiner	Art Unit	
	Rhonda S. Peace	2874	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 04 June 2007 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
- b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
- (a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
- (b) ☐ They raise the issue of new matter (see NOTE below);
- (c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
- (d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).


4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☒ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
- The status of the claim(s) is (or will be) as follows:
- Claim(s) allowed: _____.
- Claim(s) objected to: _____.
- Claim(s) rejected: 1-60.
- Claim(s) withdrawn from consideration: _____.


AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because: (see continuation sheet).
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s). _____
13. ☐ Other: _____.


MICHELLE CONNELLY-CUSHWA
PRIMARY EXAMINER
9/17/07


 Rhonda S. Peace
 Examiner
 Art Unit 2874

Applicant's assert Nakanishi et al does not disclose "a cap disposed on said submount and deteably adjoining said end face of said optical fiber block such that said cap encloses said edge emitting laser diode array and said fiber facets therein." The Examiner disagrees.

The combination of Kakii et al and Nakanishi et al discloses the subject matter of claim 1, including the limitation cited above by Applicant. Kakii et al shows the general structure of optical fibers terminated in facets of an optical fiber block, wherein said end face is adjoined to a submount, as seen in Figure 20. Nakanishi et al discloses a submount having a detachable cap, wherein said cap encloses the contents of said submount, such as a laser array and an optical fiber facet. The combination of the teachings of Nakanishi's cap with the general structure as shown in Kakii et al is considered obvious for the reasons cited in the Final rejection mailed 6/4/2007, page 4.

Applicant's assert Nakanishi et al does not disclose "a spacer interposed between said submount and each said end face such that said spacer encloses said diode array and said fiber facets." The Examiner disagrees.

As explained in the Final rejection mailed 6/4/2007, page 4, the combination of the cap 37 and sidewalls 25 may be considered a "spacer," wherein the submount consists of a flat submount with said "spacer" mounted thereon. As it has been held that forming a formerly integral structure in various pieces involves only routine skill in the art, a spacer comprising elements 25 and 37, and a submount comprising a flat substrate is an obvious variant of the structure as shown in Nakanishi in Figure 15, for example. Therefore, the spacer limitation of claim 10 is also taught by the combination of Kakii et al and Nakanishi.

Applicant additionally argues Kakii et al and Porter et al do not disclose the two limitations addressed above. However, it is the combination of Nakanishi's cap and spacer to the existing structure of Kakii et al which disclose said limitations for the reasons cited above. Additionally, Applicant has argued similar limitations within claims 18, 25, 44, and 54 (see arguments filed 9/4/2007), and are found unpersuasive for the reasons cited above with respect to claims 1 and 10.

Ronald J. Place 9/12/07.

MR Connelly-Cushwa
MICHELLE CONNELLY-CUSHWA
PRIMARY EXAMINER
9/17/07